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I hereby certify that this correspondence is being deposited with the U.S. Postal Service with sufficient postage as First Class Mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the date shown below.

Dated: October 21, 2005 Signature: Shawn P. Foley
(Shawn P. Foley)

Docket No.:
OCIRS 3.9-060 CONT
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Tumer et al.

Application No.: 09/721,047

Group Art Unit: 1638

Filed: November 22, 2000

Examiner: G. L. Helmer

For: TRANSGENIC PLANTS PRODUCING A
PAP II PROTEIN

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

ASSERTION AS TO ENTITLEMENT TO SMALL ENTITY STATUS

Dear Sir:

Applicants, through their undersigned attorneys,
hereby claim status as a small entity for purposes of paying
reduced fees.

Dated: October 21, 2005

Respectfully submitted,

By Shawn P. Foley
Shawn P. Foley
Registration No.: 33,071
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK, LLP
600 South Avenue West
Westfield, New Jersey 07090
(908) 654-5000
Attorney for Applicant



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REQUEST FOR REFUND PURSUANT TO 37 CFR §1.28

Dear Sir:

The purpose of this communication is to bring to the attention of the Patent Office the fact that the undersigned attorney filed the captioned patent application and mistakenly indicated that the Applicant was a "large entity". The establishment of large entity status was made in good faith. On August 1, 2005, Applicant paid the Issue Fee in the amount of \$1,400.00. Thus, Applicant respectfully requests a refund in the amount of \$700.00 be credited to our Deposit Account No. 12-1095, which is the difference between the Issue Fee paid and the Issue Fee for a small entity.

Since this request is being filed within three months of payment of the Issue Fee, it is believed to be timely from the standpoint of the requirement set forth in 37 CFR §1.28(a).

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The Director is kindly requested to contact the undersigned if he has any questions at (908) 654-5000.

Dated: October 21, 2005

Respectfully submitted,

By Shawn P. Foley
Shawn P. Foley

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